**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH**
**AT HYDERABAD**

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE S.ANANDA REDDY**

**WRIT PETITION NO : 12140 of 2005**

Between:

M/s Amjad Pasha Photo Beedi Factory,
Warangal, rep. by its Managing Director
Sri Syed Arifuddin Pasha S/o.Late Amjad Pasha Quadri
Charbowli, Near Water Tank, Warangal

..... PETITIONER

AND

1 Authority under Section 15 of Payment
Wages Act 1936 and Deputy Commissioner of Labour,
Warangal.
2 Smt.K.Shashi Rekha W/o.Laxminarayana,
R/o.H.No.10-7-56, Girmajipet, Warangal.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ order or direction especially one in the nature of writ of Certiorari calling for the records relating to the order dt.16.5.2005 made in I.A.No.6/2004 in P.W. case No.1/2005 in file No.B1/2892/2004 of the Respondent No.1 and quash the same and pass such order or orders.

Counsel for the Petitioner: MR.M.SURENDER RAO

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2:

**The Court at the admission stage made the following ORDER:**

This writ petition is filed by the petitioner aggrieved by the order passed by the first respondent- the Deputy Commissioner of Labour/Appellate Authority in condoning the delay in filing a case before it.

2. It is stated that the second respondent filed an Appeal under Section 31 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966 (for short 'the Act'), against the order of termination passed by the petitioner-Factory. The Appellate Authority, after hearing both sides, passed an order on 28.12.1988, setting aside the order of termination, directing the petitioner to reinstate the second respondent with continuity of service and backwages from the date of termination till the date of the order. Thereafter, the second respondent filed P.W.Case No.1 of 2000, seeking to implement the order dated 28.12.1988 passed by the Appellate Authority. As there was delay in filing the above case I.A.No.6 of 2004 was filed to condone the delay, which was ordered. According to the petitioner, the case was filed with an abnormal delay. It is stated that under the provisions of the Act, the case has to be filed within a period of one year i.e., on or before 28.12.1989, but it was filed in the year 2004. It is further stated that the petitioner filed W.P.No.5398 of 1991 against the order of the Appellate Authority and the same was dismissed on 28.06.2001. Further, Writ Appeal No.170 of 2003 filed against the said order was also dismissed on 11.11.2003. But, insofar as the period from 1988 to 1991, there were no obstacles to the second respondent to file the present case before the first respondent.

3. The learned counsel for the petitioner contended that there was no explanation from the second respondent explaining the delay or reasons for not filing the case during the period from the date of the order of the appellate authority till the date of the writ petition filed by the petitioner in the year 1991. Hence, the impugned order

passed by the first respondent condoning the delay is illegal and without jurisdiction.

4. Heard both sides and considered the material available on record.

5. Admittedly, the second respondent, who is a Beedi Worker, is a labourer and may not be aware of the statutory provisions. The very fact of filing the writ petition by the petitioner and dragging on the matter till 2003 itself is shows that the second respondent was denied and deprived of the benefits granted in her favour. The first respondent, after considering the material available on record, passed an order exercising his discretion condoning the delay. Therefore, the said order cannot be considered as illegal and irregular warranting interference by this Court and the writ petition is accordingly dismissed.

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**S.Ananda Reddy, J**

Date: 20.06.2005

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To

1 Authority under Section 15 of Payment
Wages Act 1936 and Deputy Commissioner of Labour,
Warangal.
2 Two CCs to G.P for Labour, High Court of A.P. Buildings, Hyderabad (OUT)

3 2 CD copies

4 1 CC to MR.SURENDER RAO